

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

JANUARY 9, 2003

The Marlboro Township Council held a regularly scheduled Council Meeting on January 9, 2003 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Kovalski opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this regular meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on December 13, 2002; mailed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Councilman Mione, Council Vice President Karcher. Councilwoman Singer, Council President Kovalski. (Absent: Denkensohn).

Also present were: Mayor Scannapieco, Township Attorney John O. Bennett (9:00PM), Fred Raffetto, Esq., Business Administrator Chris Marion, Municipal Clerk Alida DeGaeta and Deputy Clerk Deborah Usalowicz

The following Resolutions were introduced by reference, offered by Councilman Kovalski, seconded by Councilwoman Singer and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn): Res # 2003-1 (Raffle License Frank Defino Central School PTA (On Premise 50/50)), Res. # 2003-2 (Raffle License Frank Defino Central School PTA (On Premise Merchandise)), Res. # 2003-3 (Raffle License Marlboro Jewish Center (Off Premise Merchandise)).

RESOLUTION # 2003-1

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 01-03 (50/50 On Premise) be and

it is hereby granted to Frank Defino Central School PTA, 175 Route 79 North, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on January 24, 2003 from 5 - 11 PM and March 21, 2003 from 5 - 11 PM at Frank Defino Central School PTA, 175 Route 79 North, Marlboro, New Jersey 07746.

RESOLUTION # 2003-2

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 02-03 (On Premise Merchandise) be and it is hereby granted to Frank Defino Central School PTA, 175 Route 79 North, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on January 24, 2003 from 5 - 11 PM at Frank Defino Central School PTA, 175 Route 79 North, Marlboro, New Jersey 07746.

RESOLUTION # 2003-3

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 03-03 (Off Premise Merchandise) be and it is hereby granted to Marlboro Jewish Center, 103 School Road West, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on March 13, 2003 at 2 PM at the Chai Building, 46 Topanemus Road, Marlboro, New Jersey 07746.

The following Resolution # 2003-4 (Transfers) was introduced by reference, offered by Councilwoman Singer, seconded by Council Vice President Mione and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2003-4

RESOLUTION AUTHORIZING BUDGET TRANSFERS  
DURING FIRST THREE MONTHS  
OF THE FISCAL YEAR

WHEREAS, N.J.S.A. 40A: 4-59 provides for appropriation transfers during the first three (3) months of the fiscal year, when it has been determined that it is necessary to expend for any of the purposes specified in the budget an amount in excess of the sum appropriated therefore and where it has been further determined that there is an excess in any appropriation over the

above the amount deemed to be necessary to fulfill the purpose of such appropriation,

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of Marlboro does hereby authorize the transfers among the Calendar Year 2002 Budget in accordance with the attached schedule:

SCHEDULE A  
2002 BUDGET TRANSFERS  
January 9, 2003

CURRENT:			
DEPARTMENT		ACCOUNT #	AMOUNT
FROM:			
Engineering	S&W	2-01- -060-101	16,000.00
Fire Prevention	S&W	2-01- -104-101	15,000.00
Worker's Compensation	OE	2-01- -102-203	11,600.00
Social Security	OE	2-01- -176-254	31,400.00
TOTAL			74,000.00

TO:			
Legal	OE	2-01- -050-291	55,000.00
Planning Board	OE	2-01- -070-277	18,000.00
Recreation	OE	2-01- -145-298	1,000.00
TOTAL			74,000.00

The following Resolution # 2003-5 (Commemorating Martin Luther King Day) was read into the record and introduced by Councilman Kovalski, seconded by Councilwoman Singer and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2003-5

RESOLUTION TO HONOR THE ACHIEVEMENTS AND COURAGE OF  
DR. MARTIN LUTHER KING, JR.

WHEREAS, Dr. Martin King, Jr, was a respected leader and founder of the Civil Rights Movement during the 1950's and 60's;

WHEREAS, at great personal risk to himself, Dr. King struggled to end segregation in America and bring true freedom to African-Americans and other oppressed people,

WHEREAS, Dr. King's life was tragically ended in 1968 by an assassin's bullet;

WHEREAS, to honor the memory and legacy of Dr. King, the United States Congress declared in 1984 that January 19, the anniversary of his birth, should henceforth be recognized as "Martin Luther King Day;"

WHEREAS, the New Jersey State government recognizes January 20, 2003, as an official state holiday, along with hundreds of local governments, school districts, and private businesses.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of Marlboro that they do hereby honor the achievements and courage of Dr. Martin Luther King by commemorating "Martin Luther King Day."

At 9:45 PM, Councilman Kovalski moved that the meeting go into executive session for reason of discussing litigation, acquisition of property and contract negotiations. This was seconded by Council Vice President Mione, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Denkensohn). Recess was called and the executive session commenced at 10:15 PM.

#### RESOLUTION # 2003-6

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 9th day of January, 2003 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, litigation, acquisition of property and contract negotiations.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned items and that such executive session should take approximately 2 hours. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

At 11:40 PM, Councilman Kovalski moved that the meeting be opened. This was seconded by Council President Karcher, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Denkensohn).

The following Resolution # 2003-7 (Authorizing Payment or Reimbursement of Legal Fees - Captain Brian Hall) was introduced by reference, offered by Councilman Kovalski, seconded by Council President Karcher and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2003-7

RESOLUTION FOR PAYMENT OR REIMBURSEMENT  
OF LEGAL FEES INCURRED BY CAPTAIN BRIAN HALL PURSUANT  
TO N.J.S.A. 40A:14-155

WHEREAS, N.J.S.A. 40A:14-155 provides that when a member or officer of a municipal police force is a defendant in any action or legal proceeding arising out of and directly related to the lawful exercise of police powers in the furtherance of official duties, the governing body of the municipality shall provide said member or officer with necessary means for the defense of such action or proceeding; and

WHEREAS, Captain Brian Hall has become the subject of an investigation which would qualify as his being a defendant in an action or legal proceeding arising out of and directly related to the lawful exercise of police powers; and

WHEREAS, in relation to such, legal counsel is necessary for Captain Brian Hall; and

WHEREAS, Captain Brian Hall has made a request to the Mayor and Business Administrator for selection of Charles Uliano, Esq. to represent him in this regard; and

WHEREAS, for payment or reimbursement of legal fees, approval of the legal counsel must be given by the governing body; and

WHEREAS, the Township Council hereby approves the selection of Charles Uliano, Esq. for representation of the Police Captain in this regard and to pay/reimburse legal fees incurred as a result of this action or proceeding, at the same rate as the Township Attorney receives for litigation matters, which is currently \$160.00 per hour, and with a cap as to the total expenditure in the amount of \$3,000.00, without further authorization from the Township Council; and

WHEREAS, it is understood that the reimbursement/payment for fees is strictly limited to the investigation by the Prosecutor's office of a matter regarding interviewing, testing and selecting of a Police Captain; and

WHEREAS, the services to be provided by Charles Uliano, Esq. are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefor, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Township Clerk and that notice of the awarding of the Contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro, in the County of Monmouth, and the State of New Jersey, as follows:

1. That the appropriate representatives and officials of the Township are authorized to pay/reimburse legal fees provided by Charles Uliano, Esq. in representation of the above referenced matter in the amount of \$160.00 per hour and with a cap of \$3,000.00, without further authorization of the Township Council.

2. That this contract is awarded without competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:11-5 of the Local Public Contracts Law of New Jersey, because the services will be performed by persons authorized by law to practice a recognized professional and it is not possible to obtain bids for such needed qualitative services.

3. That the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution.

4. That Notice of the adoption of the Resolution shall be published in a newspaper of general circulation within the Township.

5. That a certified copy of this Resolution shall be provided to each of the following:

- (a) Charles Uliano, Esq.
- (b) Christopher R. Marion, Business Administrator
- (c) John O. Bennett, III, Esq., Township Attorney
- (d) Judith Tiernan, Chief Financial Officer

The following Resolution # 2003-8 (Authorizing Payment or Reimbursement of Legal Fees - Captain Bruce Hall) was introduced by reference, offered by Councilman Kovalski, seconded by Councilwoman Singer and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2003-8

RESOLUTION FOR PAYMENT OR REIMBURSEMENT  
OF LEGAL FEES INCURRED BY CAPTAIN BRUCE HALL PURSUANT  
TO N.J.S.A. 40A:14-155.

WHEREAS, N.J.S.A. 40A:14-155 provides that when a member or officer of a municipal police force is a defendant in any action or legal proceeding arising out of and directly related to the lawful exercise of police powers in the furtherance of official duties, the governing body of the municipality shall provide said member or officer with necessary means for the defense of such action or proceeding; and

WHEREAS, Captain Bruce Hall has become the subject of an investigation which would qualify as his being a defendant in an action or legal proceeding arising out of and directly related to the lawful exercise of police powers; and

WHEREAS, in relation to such, legal counsel is necessary for Captain Bruce Hall; and

WHEREAS, Captain Bruce Hall has made a request to the Mayor and Business Administrator for selection of Donald LoMurro, Esq. to represent him in this regard; and

WHEREAS, for payment or reimbursement of legal fees approval of the legal counsel must be given by the governing body; and

WHEREAS, the Township Council hereby approves the selection of Donald LoMurro, Esq. for representation of the Police Captain in this regard and to pay/reimburse legal fees incurred as a result of this action or proceeding, at the same rate as the Township Attorney receives for litigation matters, which is currently \$160.00 per hour, and with a cap as to the total expenditure in the amount of \$3,000.00, without further authorization from the Township Council; and

WHEREAS, it is understood that the reimbursement/payment for fees is strictly limited to the investigation by the Prosecutor's

office of a matter regarding interviewing, testing and selecting of a Police Captain; and

WHEREAS, the services to be provided by Donald LoMurro, Esq. are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefor, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Township Clerk and that notice of the awarding of the Contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro, in the County of Monmouth, and the State of New Jersey, as follows:

1. That the appropriate representatives and officials of the Township are authorized to pay/reimburse legal fees provided by Donald LoMurro, Esq. in representation of the above referenced matter in the amount of \$160.00 per hour and with cap of \$3,000.00, without further authorization of the Township Council.

2. That this contract is awarded without competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:11-5 of the Local Public Contracts Law of New Jersey, because the services will be performed by persons authorized by law to practice a recognized professional and it is not possible to obtain bids for such needed qualitative services.

3. That the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution.

4. That Notice of the adoption of the Resolution shall be published in a newspaper of general circulation within the Township.

5. That a certified copy of this Resolution shall be provided to each of the following:

- (a) Donald LoMurro, Esq.
- (b) Christopher R. Marion, Business Administrator
- (c) John O. Bennett, III, Esq., Township Attorney
- (d) Judith Tiernan, Chief Financial Officer



At 11:45 PM, Councilman Kovalski moved that the meeting be adjourned. This was seconded by Council President Karcher, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Denkensohn).

MINUTES APPROVED: February 27, 2003

OFFERED BY: Denkensohn AYES: 5

SECONDED BY: Singer NAYS: 0

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ALIDA DE GAETA  
MUNICIPAL CLERK

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ELLEN KARCHER  
COUNCIL PRESIDENT